

**Notice of Allowability**

Application No.

09/940,058

Examiner

Gordon J Stock

Applicant(s)

FRANZEN ET AL.

Art Unit

2877

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed on 15 October 2003 (copy of 9/22/03 amendment).
2. ☒ The allowed claim(s) is/are 1-8 and 10-22.
3. ☒ The drawings filed on 08 August 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)          |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____             |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____  | 7 <input type="checkbox"/> Examiner's Amendment/Comment                             |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
|  | 9 <input type="checkbox"/> Other  |

## DETAILED ACTION

### *Allowable Subject Matter*

1. **Claims 1-8 and 10-22** are allowed.

As to **claim 1**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in an apparatus for measuring toner concentration in a developer contained in a developer housing the particular spectrophotometer and “a processor that estimates the toner concentration based on a pre-determined relationship between at least one color space coordinate obtained from the spectrophotometric data and the toner concentration” in combination with the rest of the limitations of **claims 1-3, 5-7, 20, and 21**.

As to **claim 4**, the prior art of record, taken alone or in combination, fails to disclose or render obvious an apparatus for measuring toner concentration in a developer contained in a developer housing “an empirical relationship between the percent toner concentration and at least one of an  $L^*$ ,  $a^*$ ,  $b^*$ , chroma, hue and a CMC color difference color parameter,” in combination with the rest of the limitations of **claim 4**.

As to **claim 8**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in a method for measuring toner concentration in a developer housing “mixing the developer sample with a solvent or surfactant prior to measuring color characteristics,” in combination with the rest of the limitations of **claims 8, 10-14**.

As to **claim 15**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in a method for estimating the toner concentration in a developer comprising a toner and a carrier “measuring a color characteristic of the developer selected from a group

Art Unit: 2877

consisting of a CMC color difference,  $L^*$ ,  $a^*$ ,  $b^*$ , chroma, and hue,” in combination with the rest of the limitations of **claims 15-19**.

As to **claim 22**, the prior art of record, taken alone or in combination, fails to disclose or render obvious in an apparatus for measuring toner concentration in a developer “a means for mixing the developer sample with a solvent or surfactant prior to measuring color characteristics,” in combination with the rest of the limitations of **claim 22**.

### ***Response to Arguments***

2. Applicant’s arguments, see pages 7-10 of Remarks, filed September 22, 2003 (Examiner requested copy due to poor imaging and this was received October 15, 2003), with respect to the claims have been fully considered and are persuasive. Due to the persuasiveness of arguments and the subsequent amending of the claims, the rejection of the claims has been withdrawn.

### ***Fax/Telephone Numbers***

If the applicant wishes to send a fax dealing with either a proposed amendment or a discussion with a phone interview, then the fax should:

- 1) Contain either a statement “DRAFT” or “PROPOSED AMENDMENT” on the fax cover sheet; and
- 2) Should be unsigned by the attorney or agent.

This will ensure that it will not be entered into the case and will be forwarded to the examiner as quickly as possible.

*Papers related to the application may be submitted to Group 2800 by Fax transmission. Papers should be faxed to Group 2800 via the PTO Fax machine located in Crystal Plaza 4. The form of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CP4 Fax Machine number is: (703) 872-9306*

Art Unit: 2877

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gordon J. Stock whose telephone number is (703) 305-4787.


The examiner can normally be reached on Monday-Friday, 10:00 a.m. - 6:30 p.m.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

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January 8, 2004

  
Zandra V. Smith  
Primary Examiner  
Art Unit 2877